

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

MERCY MCAULEY CENTER

and

Case 09-CA-141604

**SEIU DISTRICT 1099 WV/KY/OH, THE HEALTH
CARE AND SOCIAL SERVICE UNION**

ORDER¹

The Respondent's Motion for Summary Judgment is denied. The Respondent has failed to establish that there are no genuine issues of material fact and that it is entitled to judgment as a matter of law.²

Dated, Washington, D.C., June 12, 2015

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
KENT Y. HIROZAWA,	MEMBER

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² We reject the Region's argument that the motion should be dismissed on the procedural ground that it was not served on the Region as required by Sec. 102.114 of the Board's Rules and Regulations. The Board has long held that it "generally will not reject an improperly served document absent a showing of prejudice to a party." *Paolicelli*, 335 NLRB 881, 882 (2001), quoting *Century Parking, Inc.*, 327 NLRB 21 fn. 7 (1998). In addition, "[w]hile the Board strongly encourages strict compliance with its procedural rules, including those concerning the manner of filing and serving answers to complaints, the Board recognizes that the law favors a determination on the merits." *Id.*, citing *M.J. McNally, Inc.*, 302 NLRB 120 (1991).